REMARKS

The applicants acknowledge the Examiner's comprehensive Office Action with appreciation. Claims 1-13 and 15-17 remain under consideration. The Finality of the previous Office Action has been withdrawn. The previous rejections for obviousness under 35 USC § 103(a) and for double-patenting have also been withdrawn as a result of the interview of August 8, 2005. The Office raises a new rejection under 35 USC § 103(a).

Claims 1-13 and 15-17 are rejected for obviousness under 35 USC § 103(a) based on Gold, et al. (WO 99/01416) in view of Lucot. It is the position of the Office that Gold, et al. disclose NMDA antagonist activity for the compounds of the instantly claimed method and that Lucot discloses that NMDA antagonists have broad spectrum antiemetic activity. The Office therefore concludes that it would have been obvious to one skilled in the art to employ the NMDA receptor antagonists disclosed in Gold, et al. in a method for treating emesis.

Specifically, the Office states that Lucot discloses that since NMDA antagonists prevent cisplatin-induced emesis and NMDA receptors are present in both emetic pathways and structures associated with the final common pathway for vomiting, NMDA receptor antagonists have potential to be broad-spectrum anti-emetics. The Lucot reference cites Lehmann, et al. to support the assertion that NMDA receptor antagonists reduce cisplatin-induced emesis; however, Lehmann, et al. conclude that NMDA receptor antagonists ***may*** afford protection against cisplatin-induced emesis but the specificity of this effect is uncertain since it may relate to general CNS depression (the Lehmann, et al. reference is submitted along with Form PTO-1449).

The Applicants respectfully submit that the data presented at page 408 of the Lucot reference demonstrate that one of the NMDA receptor antagonists tested produced a dose-depended *trend* toward a decrease in symptoms which *failed to achieve statistical significance* and that another NMDA receptor antagonist produced a

decrease in symptoms which was *not* dose-dependent and which also *failed to achieve statistical significance*.

Thus, the Applicants submit that the data disclosed in Lucot do not support the Office conclusion that one skilled in the art would recognize NMDA receptor antagonists as possessing broad spectrum anti-emetic activity. On the contrary, the Lucot disclosure represents nothing more than an invitation to experiment. Therefore, the Applicants respectfully submit that the claim to treating emesis is not rendered obvious by the Lucot disclosure. Reconsideration and withdrawal of the obviousness rejection is respectfully requested.

* * * * *

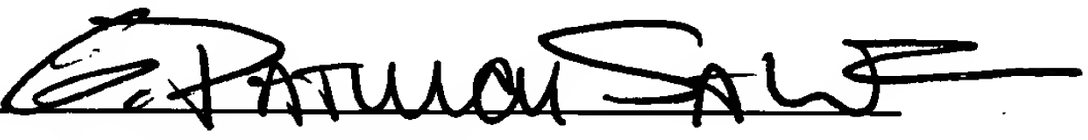
Accordingly, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned attorney has made an earnest effort to place this application into condition for immediate allowance. If he can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call him at his below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 

G. PATRICK SAGE

Dated: January 30, 2006
Customer No.: 25,666
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Enclosure: Form PTO-1449 and Accompanying Reference; Fee for Two (2) Month Extension; and Postal Card Receipt

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THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FURTHER OR ADDITIONAL FEES WHICH MAY BE REQUIRED (DUE TO OMISSION, DEFICIENCY, OR OTHERWISE), OR TO CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 08,3220.